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Filing date: **07/03/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91152940
Party	Plaintiff SINCLAIR OIL CORPORATION SINCLAIR OIL CORPORATION ,
Correspondence Address	JOHN C. STRINGHAM WORKMAN, NYDEGGER & SEELEY 1000 EAGLE GATE TOWER, 60 EAST SOUTH TEMPLE SALT LAKE CITY, UT 84111 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Robyn L. Phillips
Filer's e-mail	rphillips@wnlaw.com, jgarcia@wnlaw.com
Signature	/Robyn L. Phillips/
Date	07/03/2007
Attachments	025 Memo standing _ final.pdf ( 5 pages )(180163 bytes ) 025 Decl Standing_final.pdf ( 3 pages )(100134 bytes ) 025 Exhibit A-D.pdf ( 18 pages )(943664 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 76/212,011  
Published in the Official Gazette of May 28, 2002, at page TM 1497, Int'l Class 35.  
Filed: February 20, 2001  
Mark: STAACHI'S CO. 1996 & DESIGN

SINCLAIR OIL CORPORATION	)	Opposition No. 91152940
Opposer,	)	
v.	)	<b>MEMORANDUM IN SUPPORT OF</b>
SUMATRA KENDRICK	)	<b>SINCLAIR OIL CORPORATION'S</b>
Applicant.	)	<b>SHOWING OF STANDING IN</b>
	)	<b>RESPONSE TO THE BOARD'S ORDER</b>
	)	<b>MAILED JUNE 6, 2007</b>

On June 6, 2007, the Trademark Trial and Appeal Board ("TTAB") issued an Order conditionally granting the Motion for Summary Judgment filed by Opposer Sinclair Oil Corporation ("Opposer"). The Order was conditioned upon a showing of standing by Opposer. On page 17 of the Order, the TTAB wrote "Opposer is therefore allowed thirty days from the mailing date set forth in the caption of this order in which to submit a showing that there is no genuine issue of fact as to standing, and that it is entitled to judgment on the issue of standing as a matter of law."

This memorandum, in conjunction with the Declaration of Lynn Hart ("Hart Decl.") filed concurrently herewith, is submitted in support of Opposer's showing that it does have standing. Opposer respectfully submits that it meets the necessary requirements for standing and that it is entitled to a Judgment on this issue.

## **I. FACTUAL BACKGROUND**

Applicant Sumatra Kendrick (“Applicant”) filed an application under § 1(a) of the Trademark Act on February 20, 2001, for the mark “STAACHI’S CO. 1996 & DESIGN” (the “Application”). Opposer opposed the registration of the Application and on March 1, 2006, filed a Motion for Summary Judgment. The Board granted Opposer’s Motion for Summary Judgment on June 6, 2006, conditioned on a showing of standing by Opposer.

When Opposer filed the Opposition on August 26, 2002, it was the owner of several registered and pending trademarks<sup>1</sup> that it believed would likely be confused with the Applicant’s mark. Hart Decl., ¶ 3, Exhibits A-D. During the pendency of the present opposition, Opposer has undergone a complete corporate restructuring and has been reorganized. Hart Decl., ¶ 4. As part of the restructuring, Opposer’s name was changed to “The Sinclair Companies” and its trademarks were assigned to the newly created and wholly owned subsidiary, Sinclair Finance Company. Hart Decl., ¶¶ 5-6.

As discussed below, as originally the owner of the marks and now as the parent of a wholly owned subsidiary that owns the registered marks, Opposer has standing to oppose registration of the Application.

## **II. ARGUMENT**

### **A. Standards to Establish Standing.**

Section 13 of the Trademark Act of 1946 as amended, sets the standard as to what is required to have standing to file an opposition to registration of a particular mark. *See* 15 U.S.C. § 1063. Section 13 provides in part: “Any person who believes that he would be damaged by the registration of a mark upon the principal register, . . . may, upon payment of the prescribed

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<sup>1</sup> The marks that were asserted by Sinclair Oil Corporation in the Notice of Opposition were United States Trademark Registrations 929,749 and 929,550 and pending United States Trademark Application Serial Nos. 78/157,978 and 78/157,988. *See* Notice of Opposition, at p. 3-5; *see also* Hart Decl., ¶ 3 and Exhibits A-D. While this case was pending the trademark applications were allowed and are now Registrations 2,897,067, and 2,978,288, respectively. Hart Decl., ¶ 3 and Exhibits C-D. All of these marks remain registered and in good standing. Hart Decl., ¶ 3 and Exhibits A-D.

fee, file an opposition in the Patent and Trademark Office....” *Id.*; see also *Universal Oil Prods. Co. v. Rexall Drug & Chemical Co.*, 463 F.2d 1122, 174 U.S.P.Q. 458, 459 (C.C.P.A. 1972). “Standing, within the meaning of § 13, . . . is found when the opposer establishes a real interest in the proceeding.” *Universal Oil*, 174 U.S.P.Q. at 459; see also *Tanners’ Council of America, Inc. v. Gary Indus. Inc.*, 440 F.2d 1404, 169 U.S.P.Q. 608, 609-10 (C.C.P.A.1971).

In *Universal Oil* the court stated: “[T]he parent corporation of a wholly owned subsidiary, appellant can reasonably believe that damage to the subsidiary will naturally lead to financial injury to itself. Section 13 requires only a belief of damage resulting from the applicant’s registration, and while that belief must have some reasonable basis in fact, this statutory provision, as evidenced by *Tanners’ Council*, has been liberally construed.” *Universal Oil*, 174 U.S.P.Q. at 459.<sup>2</sup> “We conclude that appellant [as the parent corporation] has a real interest in this proceeding and therefore standing to institute and maintain it.” *Universal Oil*, 174 U.S.P.Q. at 460.

**B. A Parent Of A Wholly Owned Subsidiary Has Standing To Oppose The Registration Of A Mark That Is Likely To Cause Confusion With The Subsidiary’s Marks**

In the present case, at the time the Opposition was filed, Opposer was the owner of the marks for which Applicant’s mark would likely cause confusion. Hart Decl., ¶ 3, Exhibits A-D. Accordingly, Sinclair Oil Corporation as the owner of the asserted marks had standing at the time it filed the Opposition. Now, Opposer is the parent of its wholly owned subsidiary, Sinclair

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<sup>2</sup> In discussing its *Tanners’ Council of America, Inc. v. Gary Indus. Inc.*, 440 F.2d 1404, 169 U.S.P.Q. 608 (C.C.P.A.1971) decision, the court stated that in that case it had “held that where an incorporated trade association had established a pecuniary interest which it justifiably believed would be damaged by the registration of the involved trademark, the association had standing under § 13 to oppose that registration even though it did not itself deal in goods. The [*Tanners’ Council*] court had found that the income of the association was dependent upon the income of its members and that registration of the involved mark could weaken the sales position of its members thereby ultimately reducing its own income. Consequently, the association had shown a real interest in the proceeding, and this, the court held, was the gist of the requirement of § 13.” *Universal Oil*, 174 U.S.P.Q. at 459; see also *Tanners’ Council*, 169 U.S.P.Q. at 609-10.

Financial Company, which owns such marks. Hart Decl., ¶¶ 5-6. As the parent of its wholly owned subsidiary, Sinclair Finance Company, Opposer still has standing to oppose the registration of the Application, which is likely to cause confusion with Sinclair Finance Company's registered marks. *See Universal Oil*, 174 U.S.P.Q. at 459.

Based on the foregoing authority, Opposer's status as the parent company confers standing upon it to oppose the Application. *See Universal Oil*, 174 U.S.P.Q. at 459-60. Consequently, Opposer respectfully requests that summary judgment be entered in its favor.

### **III. CONCLUSION**

Based on the foregoing, Opposer respectfully requests that summary judgment be entered in its favor and against Applicant.

DATED this 3rd day of July, 2007.

By: /Robyn L. Phillips/  
ROBYN L. PHILLIPS, Reg. No. 39,330

WORKMAN | NYDEGGER  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 533-9800  
Facsimile: (801) 328-1707

Attorneys for Opposer  
SINCLAIR OIL CORPORATION

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF SINCLAIR OIL CORPORATION'S SHOWING OF STANDING IN RESPONSE TO THE BOARD'S ORDER MAILED JUNE 6, 2007** was served on Applicant by mailing a true copy thereof, by First Class Mail, postage prepaid this 3rd day of July, 2007, in an envelope addressed as follows:

Sumatra Kendrick  
P.O. Box 434  
Berkeley, California 94701

\_\_\_\_\_/Robyn L. Phillips/\_\_\_\_\_  
\_\_\_\_\_

J:\15027203\025 Memo Standing\_final.doc

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 76/212,011  
Published in the Official Gazette of May 28, 2002, at page TM 1497, Int'l Class 35.  
Filed: February 20, 2001  
Mark: STAACHI'S CO. 1996 & DESIGN

SINCLAIR OIL CORPORATION	)	Opposition No. 91152940
Opposer,	)	
v.	)	<b>DECLARATION OF LYNN HART</b>
SUMATRA KENDRICK	)	<b>IN SUPPORT OF SINCLAIR OIL</b>
Applicant.	)	<b>CORPORATION'S SHOWING</b>
	)	<b>OF STANDING IN RESPONSE</b>
	)	<b>TO THE BOARD'S ORDER</b>
	)	<b>MAILED JUNE 6, 2007</b>

I, Lynn Hart, declarant herein, deposes and states:

1. I am a Corporate Counsel for Opposer Sinclair Oil Corporation now known as The Sinclair Companies ("Opposer").
2. I make this declaration based upon my own personal knowledge and based upon records, maintained by Opposer in the ordinary course of business.
3. When Sinclair Oil Corporation filed the present Opposition proceeding on August 26, 2002, it was the owner of United States Trademark Registrations 929,749 and 929,750. Exhibits A and B. Sinclair Oil Corporation was also the owner of United States Trademark Application Serial Nos. 78/157,978 and 78/157,988 which issued as Registrations 2,897,067 and 2,978,288, respectively, while this Opposition has been pending. Exhibits C and D. These marks remain registered and in good standing. *See Exhibits A-D.*


4. During the pendency of this Opposition, Sinclair Oil Corporation underwent a corporate restructuring and reorganization.

5. As part of the restructuring, Sinclair Oil Corporation's name was changed to "The Sinclair Companies."

6. During the restructuring, Sinclair Oil Corporation's trademarks, including those asserted in the Notice of Opposition, were assigned to the newly created, wholly-owned subsidiary of Sinclair Oil Corporation (now "The Sinclair Companies"), Sinclair Finance Company.

I declare under penalty of perjury under the laws of the United States of America that to the best of my knowledge the contents of the foregoing declaration are true and correct.

DATED this 3<sup>rd</sup> day of July, 2007.

  
\_\_\_\_\_  
LYNN HART



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**DECLARATION OF LYNN HART IN SUPPORT OF SINCLAIR OIL  
CORPORATION'S SHOWING OF STANDING IN RESPONSE TO THE BOARD'S  
ORDER MAILED JUNE 6, 2007** was served on Applicant by mailing a true copy thereof, by  
First Class Mail, postage prepaid this 3rd day of July, 2007, in an envelope addressed as follows:

Sumatra Kendrick  
P.O. Box 434  
Berkeley, California 94701

\_\_\_\_\_  
/Robyn L. Phillips/

J:\15027203\025 Decl Standing\_final.doc

# Exhibit A

Int. Cls.: 35, 41 and 42

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

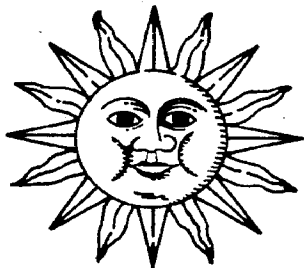
10 Year Renewal

Reg. No. 929,749

Registered Feb. 22, 1972

Renewal Term Begins Feb. 22, 1992

SERVICE MARK  
PRINCIPAL REGISTER



SINCLAIR OIL CORPORATION (WYOMING CORPORATION)  
550 EAST SOUTH TEMPLE  
P.O. BOX 30825

SALT LAKE CITY, UT 841300825, BY ASSIGNMENT, CHANGE OF NAME AND MERGER WITH SUN VALLEY COMPANY INC. (IDAHO CORPORATION)  
SUN VALLEY, ID

FOR: RESTAURANT, HOTEL, LODGING AND NIGHT CLUB SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

FOR: SALE, LEASING AND MANAGEMENT OF REAL ESTATE; AND

RETAIL APPAREL AND GIFT STORE SERVICES, IN CLASS 101 (INT. CL. 35).  
FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

FOR: PROVIDING RECREATIONAL AND ENTERTAINMENT SERVICES AND FACILITIES THEREFOR—NAMESLY, PROVIDING INSTRUCTION IN VARIOUS OUTDOOR SPORTS ACTIVITIES, SUCH AS SKIING, TENNIS AND GOLF; ARRANGEMENT AND ORGANIZATION OF SPORTING CONTESTS AND EXHIBITIONS—NAMESLY, SKI RACES, IN CLASS 107 (INT. CL. 41).  
FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

SER. NO. 72-310,611, FILED 10-28-1968.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Mar. 24, 1992.*

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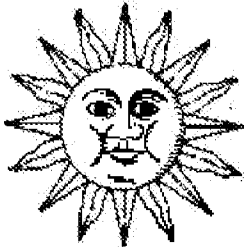
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#### Goods and Services

(CANCELLED) IC 035 036 037 038 039 040 041 042. US 100. G & S: [ RESTAURANT, HOTEL, LODGING AND NIGHT CLUB SERVICES ]. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 035. US 101. G & S: SALE, LEASING AND MANAGEMENT OF REAL ESTATE; AND RETAIL APPAREL AND GIFT STORE SERVICES. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 041. US 107. G & S: PROVIDING RECREATIONAL AND ENTERTAINMENT SERVICES AND FACILITIES THEREFOR-NAMELY, PROVIDING INSTRUCTION IN VARIOUS OUTDOOR SPORTS ACTIVITIES, SUCH AS SKIING, TENNIS AND GOLF; ARRANGEMENT AND ORGANIZATION OF SPORTING CONTESTS AND EXHIBITIONS-NAMELY, SKI RACES. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

#### Mark Drawing Code

(2) DESIGN ONLY

#### Design

Search Code 01.05.03 - Sun representing a human face or an animal

Serial Number 72310611

Filing Date October 28, 1968

Current Filing Basis 1A

Original Filing Basis 1A

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 0929749

**Registration Date** February 22, 1972  
**Owner** (REGISTRANT) SUN VALLEY COMPANY INC. CORPORATION IDAHO SUN VALLEY IDAHO 83353  
  
(LAST LISTED OWNER) SINCLAIR FINANCE COMPANY CORPORATION WYOMING 550 EAST SOUTH TEMPLE P.O. BOX 31825 SALT LAKE CITY UTAH 841300825  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** WILLIAM J. BIRMINGHAM  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). PARTIAL SECTION 8(10-YR) 20020420.  
**Renewal** 2ND RENEWAL 20020420  
**Live/Dead Indicator** LIVE

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# **Exhibit B**

Int. Cls.: 36, 41 and 42

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 929,750

Registered Feb. 22, 1972

Renewal Term Begins Feb. 22, 1992

SERVICE MARK  
PRINCIPAL REGISTER



**Sun Valley**

SINCLAIR OIL CORPORATION (WYOMING CORPORATION)

550 EAST SOUTH TEMPLE

P.O. BOX 30825

SALT LAKE CITY, UT 841300825, BY  
CHANGE OF NAME AND MERGER  
WITH SUN VALLEY COMPANY INC.  
(IDAHO CORPORATION) SUN  
VALLEY, ID

FOR: RESTAURANT, HOTEL, LODGING,  
AND NIGHT CLUB SERVICES, IN  
CLASS 100 (INT. CL. 42).

FIRST USE 12-11-1964; IN COMMERCE  
12-11-1964.

FOR: SALE, LEASING AND MANAGEMENT  
OF REAL ESTATE; RETAIL  
APPAREL AND GIFT STORE SERV-

ICES, IN CLASS 101 (INT. CLS. 36 AND  
42).

FIRST USE 12-11-1964; IN COMMERCE  
12-11-1964.

FOR: PROVIDING RECREATIONAL  
AND ENTERTAINMENT SERVICES  
AND FACILITIES THEREFOR—  
NAMELY, PROVIDING INSTRUCTION  
IN VARIOUS OUTDOOR SPORTS  
ACTIVITIES, SUCH AS SKIING, TENNIS  
AND GOLF; ARRANGEMENT AND ORGANIZATION  
OF SPORTING CONTESTS AND EXHIBITIONS—  
NAMELY, SKI RACES, IN CLASS 107 (INT. CL. 41).

FIRST USE 12-11-1964; IN COMMERCE  
12-11-1964.

SER. NO. 72-311,732, FILED 11-12-1968.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Mar. 10, 1992.*

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**Word Mark** SUN VALLEY

**Goods and Services** IC 042. US 100. G & S: RESTAURANT, HOTEL, LODGING, AND NIGHT CLUB SERVICES. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 036 042. US 101. G & S: SALE, LEASING AND MANAGEMENT OF REAL ESTATE; RETAIL APPAREL AND GIFT STORE SERVICES. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 041. US 107. G & S: PROVIDING RECREATIONAL AND ENTERTAINMENT SERVICES AND FACILITIES THEREFOR-NAMELY, PROVIDING INSTRUCTION IN VARIOUS OUTDOOR SPORTS ACTIVITIES, SUCH AS SKIING, TENNIS AND GOLF; ARRANGEMENT AND ORGANIZATION OF SPORTING CONTESTS AND EXHIBITIONS-NAMELY, SKI RACES. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 01.05.03 - Sun representing a human face or an animal

**Serial Number** 72311732

**Filing Date** November 12, 1968

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Registration Number** 0929750

**Registration Date** February 22, 1972



**Owner** (REGISTRANT) SUN VALLEY COMPANY INC. CORPORATION IDAHO SUN VALLEY IDAHO 83353

(LAST LISTED OWNER) SINCLAIR FINANCE COMPANY CORPORATION WYOMING 550 EAST SOUTH TEMPLE P.O. BOX 31825 SALT LAKE CITY UTAH 841300825

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** JOHN C STRINGHAM

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20021007.

**Renewal** 2ND RENEWAL 20021007

**Live/Dead Indicator** LIVE

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# **Exhibit C**

**Int. Cls.: 35, 36, 39, 41 and 43**

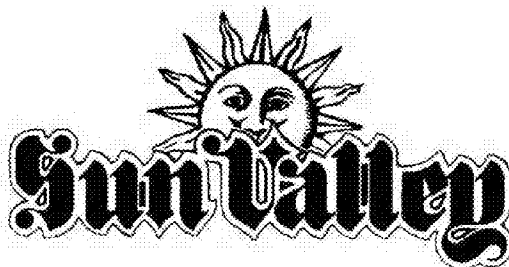
**Prior U.S. Cls.: 100, 101, 102, 105 and 107**

**United States Patent and Trademark Office**

**Reg. No. 2,897,067**

**Registered Oct. 26, 2004**

**SERVICE MARK  
PRINCIPAL REGISTER**



SINCLAIR OIL CORPORATION (WYOMING CORPORATION)  
550 EAST SOUTH TEMPLE  
P.O. BOX 30825  
SALT LAKE CITY, UT 841300825

FOR: RETAIL GIFT STORE SERVICES; RETAIL GROCERY FOOD AND DELICATESSEN SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-1-1961; IN COMMERCE 12-1-1961.

FOR: REAL ESTATE AGENCY SERVICES, NAMELY LEASING OF REAL PROPERTY AND REAL ESTATE MANAGEMENT OF CONDOMINIUMS; LEASING OF SHOPPING MALL SPACE, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-1-1961; IN COMMERCE 12-1-1961.

FOR: TRANSPORTATION SERVICES, NAMELY TRANSPORTATION OF PASSENGERS BY VAN OR BUS; TRAVEL AGENCY SERVICES, NAMELY MAKING RESERVATIONS AND BOOKINGS FOR TRANSPORTATION; RENTAL OF BICYCLES, IN CLASS 39 (U.S. CLS. 100 AND 105).

FIRST USE 12-1-1961; IN COMMERCE 12-1-1961.

FOR: PROVIDING RECREATIONAL, SPORTS AND ENTERTAINMENT FACILITIES FOR SKIING, SNOWBOARDING, SNOWSHOEING, GOLFING, TENNIS, ICE SKATING, HORSEBACK RIDING, MOUNTAIN BIKING, TRAP SHOOTING; PROVIDING INSTRUCTION IN VARIOUS OUTDOOR

SPORTS, NAMELY, SKIING, SNOWBOARDING, SNOWSHOEING, GOLFING, TENNIS, ICE SKATING, SWIMMING, TRAP SHOOTING; ARRANGING AND CONDUCTING SPORTING CONTESTS AND EXHIBITIONS, NAMELY, SKI RACES AND EXHIBITIONS, ICE SKATING SHOWS AND EXHIBITIONS; ENTERTAINMENT SERVICES, NAMELY, PROVIDING FACILITIES FOR HAYRIDES, SLEIGH RIDES, MOVIE THEATERS, ICE RINKS, BOWLING ALLEYS, SWIMMING POOLS AND PLAYGROUND FACILITIES; RENTAL OF SPORTING EQUIPMENT, NAMELY, SKIS, SNOWBOARDS, SNOWSHOES, ICE SKATES, TENNIS RACKETS, GOLF CLUBS AND RELATED ACCESSORIES; SKI RESORTS; NIGHT CLUBS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 12-1-1961; IN COMMERCE 12-1-1961.

FOR: RESORT HOTEL AND RESORT LODGING SERVICES; RESTAURANT SERVICES; HOTEL AND LODGING SERVICES; BANQUET AND CATERING SERVICES AND FACILITIES; TRAVEL AGENCY SERVICES, NAMELY MAKING RESERVATIONS AND BOOKINGS FOR TEMPORARY LODGING, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 12-1-1961; IN COMMERCE 12-1-1961.

OWNER OF U.S. REG. NOS. 915,211, 929,749, AND 929,750.

SER. NO. 78-157,978, FILED 8-26-2002.

ROBERT LORENZO, EXAMINING ATTORNEY



United States Patent and Trademark Office

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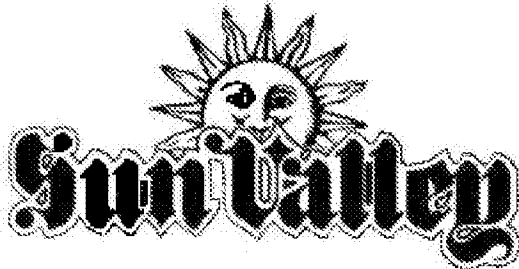
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#### Word Mark

SUN VALLEY

#### Goods and Services

IC 035. US 100 101 102. G & S: Retail gift store services; retail grocery food and delicatessen services. FIRST USE: 19611201. FIRST USE IN COMMERCE: 19611201

IC 036. US 100 101 102. G & S: Real estate agency services, namely leasing of real property and real estate management of condominiums; leasing of shopping mall space. FIRST USE: 19611201. FIRST USE IN COMMERCE: 19611201

IC 039. US 100 105. G & S: Transportation services, namely transportation of passengers by van or bus; travel agency services, namely making reservations and bookings for transportation; rental of bicycles. FIRST USE: 19611201. FIRST USE IN COMMERCE: 19611201

IC 041. US 100 101 107. G & S: Providing recreational, sports and entertainment facilities for skiing, snowboarding, snowshoeing, golfing, tennis, ice skating, horseback riding, mountain biking, trap shooting; providing instruction in various outdoor sports, namely, skiing, snowboarding, snowshoeing, golfing, tennis, ice skating, swimming, trap shooting; arranging and conducting sporting contests and exhibitions, namely, ski races and exhibitions, ice skating shows and exhibitions; entertainment services, namely, providing facilities for hayrides, sleigh rides, movie theaters, ice rinks, bowling alleys, swimming pools and playground facilities; rental of sporting equipment, namely, skis, snowboards, snowshoes, ice skates, tennis rackets, golf clubs and related accessories; ski resorts; night clubs. FIRST USE: 19611201. FIRST USE IN COMMERCE: 19611201

IC 043. US 100 101. G & S: Resort hotel and resort lodging services; restaurant services; hotel and lodging services; banquet and catering services and facilities; travel agency services, namely making reservations and bookings for temporary lodging. FIRST USE: 19611201. FIRST USE IN COMMERCE: 19611201

#### Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design** 01.05.03 - Sun representing a human face or an animal  
**Search Code** 26.11.21 - Rectangles that are completely or partially shaded  
**Serial Number** 78157978  
**Filing Date** August 26, 2002  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** August 3, 2004  
**Registration Number** 2897067  
**Registration Date** October 26, 2004  
**Owner** (REGISTRANT) Sinclair Oil Corporation CORPORATION WYOMING 550 East South Temple P.O. Box 30825 Salt Lake City UTAH 841300825  
  
(LAST LISTED OWNER) SINCLAIR FINANCE COMPANY CORPORATION WYOMING 550 EAST SOUTH TEMPLE P.O. BOX 31825 SALT LAKE CITY UTAH 841300825  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** John C. Stringham  
**Prior Registrations** 0915211;0929749;0929750  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# **Exhibit D**

**Int. Cls.: 6, 9, 14, 16, 20, 21, 25, 26, 28, 35, 36, 39, 41, and 43**

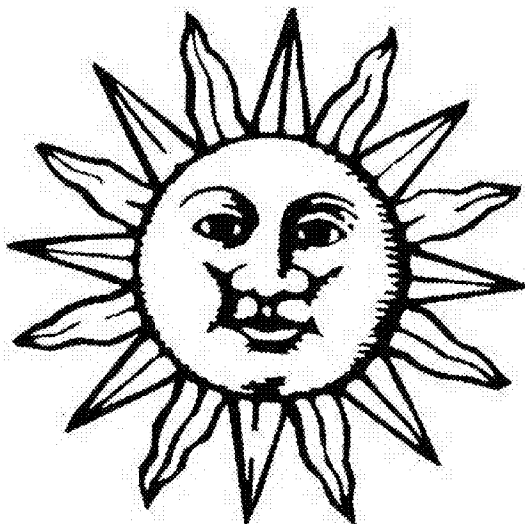
**Prior U.S. Cls.: 2, 5, 12, 13, 14, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, 33, 36, 37, 38, 39, 40, 42, 50, 100, 101, 102, 105, and 107**

**Reg. No. 2,978,288**

**United States Patent and Trademark Office**

**Registered July 26, 2005**

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**



**SINCLAIR OIL CORPORATION (WYOMING CORPORATION)**

**550 EAST SOUTH TEMPLE  
P.O. BOX 30825  
SALT LAKE CITY, UT 84111**

**FOR: GOODS MADE OF METAL, NAMELY FIGURINES OF COMMON METAL, JEWELRY BOXES OF METAL, METAL BELLS, METAL CHARMS FOR IDENTIFYING DRINKS, METAL DECORATIVE BOXES, BASKETS OF COMMON METAL, METAL HOLIDAY ORNAMENTS - NOT TREE ORNAMENTS, METAL IDENTIFICATION BRACELETS OF NON-PRECIOUS METAL, METAL KEY CHAINS, METAL KEY FOBS, METAL KEY RINGS, STATUES AND STATUETTES OF NON-PRECIOUS METAL, NON-LUMINOUS AND NON-MECHANICAL METAL SIGNS, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).**

**FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.**

**FOR: DECORATIVE MAGNETS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).**

**FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.**

**FOR: JEWELRY AND ORNAMENTAL PINS, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).**

**FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.**

**FOR: POSTERS, POSTCARDS, NOTE PADS, STATIONERY, PENS, MAGAZINES IN THE FIELD OF RESORT SERVICES AND TELEPHONE DIRECTORIES, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).**

**FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.**

**FOR: NON-METAL KEY CHAINS, KEY RINGS, KEY TAGS AND PLASTIC BANNERS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).**

**FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.**

**FOR: CUPS, MUGS AND GLASSWARE, NAMELY BEVERAGE GLASSES AND PLATES, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).**

**FIRST USE 0-0-2000; IN COMMERCE 0-0-2000.**

**FOR: CLOTHING, NAMELY, T-SHIRTS, SHIRTS, GOLF SHIRTS, POLO SHIRTS, HATS, BASEBALL CAPS, GOLF CAPS, SWEATSHIRTS, SWEATERS, COATS, VESTS, GLOVES, SCARVES AND TIES, IN CLASS 25 (U.S. CLS. 22 AND 39).**

**FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.**

FOR: EMBROIDERED AND ORNAMENTAL CLOTH PATCHES, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

FOR: SPORTING GOODS, NAMELY, GOLF BALLS, GOLF BALL MARKERS, GOLF TEES, HEAD COVERS FOR GOLF CLUBS, MANUALLY OPERATED EXERCISE EQUIPMENT, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

FOR: RETAIL GIFT STORE SERVICES; RETAIL GROCERY FOOD AND DELICATESSEN SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

FOR: REAL ESTATE AGENCY SERVICES, NAMELY LEASING OF REAL PROPERTY AND REAL ESTATE MANAGEMENT OF CONDOMINIUMS; LEASING OF SHOPPING MALL SPACE, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

FOR: TRANSPORTATION SERVICES, NAMELY TRANSPORTATION OF PASSENGERS BY VAN OR BUS; TRAVEL AGENCY SERVICES, NAMELY MAKING RESERVATIONS AND BOOKING FOR TRANSPORTATION; RENTAL OF BICYCLES, IN CLASS 39 (U.S. CLS. 100 AND 105).

FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

FOR: PROVIDING RECREATIONAL, SPORTS AND ENTERTAINMENT FACILITIES FOR SKIING,

SNOWBOARDING, SNOWSHOEING, GOLFING, TENNIS, ICE SKATING, HORSEBACK RIDING, MOUNTAIN BIKING, TRAP SHOOTING; PROVIDING INSTRUCTION IN VARIOUS OUTDOOR SPORTS, NAMELY SKIING, SNOWBOARDING, SNOWSHOEING, GOLFING, TENNIS, ICE SKATING, SWIMMING, TRAP SHOOTING; ARRANGING AND CONDUCTING SPORTING CONTESTS AND EXHIBITIONS, NAMELY SKI RACES AND EXHIBITIONS, ICE SKATING SHOWS AND EXHIBITIONS; ENTERTAINMENT SERVICES, NAMELY PROVIDING FACILITIES FOR HAYRIDES, SLEIGH RIDES, MOVIE THEATERS, ICE RINKS, BOWLING ALLEYS, SWIMMING POOLS AND PLAYGROUND FACILITIES; RENTAL OF SPORTING EQUIPMENT, NAMELY SKIS, SNOWBOARDS, SNOWSHOES, ICE SKATES, TENNIS RACKETS, GOLF CLUBS AND RELATED ACCESSORIES; SKI RESORTS; NIGHT CLUBS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

FOR: RESORT HOTEL AND RESORT LODGING SERVICES; RESTAURANT SERVICES; HOTEL AND LODGING SERVICES; BANQUET AND CATERING SERVICES AND FACILITIES; TRAVEL AGENCY SERVICES, NAMELY MAKING RESERVATIONS AND BOOKINGS FOR TEMPORARY LODGING, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 12-11-1964; IN COMMERCE 12-11-1964.

OWNER OF U.S. REG. NOS. 915,211, 929,749, AND 929,750.

SN 78-157,988, FILED 8-26-2002.

ROBERT LORENZO, EXAMINING ATTORNEY





United States Patent and Trademark Office

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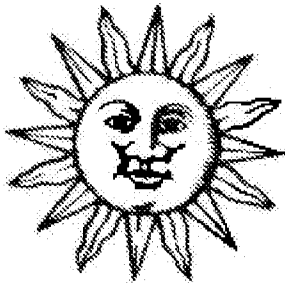
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#### Goods and Services

IC 006. US 002 012 013 014 023 025 050. G & S: Goods made of metal, namely figurines of common metal, jewelry boxes of metal, metal bells, metal charms for identifying drinks, metal decorative boxes, baskets of common metal, metal holiday ornaments - not tree ornaments, metal identification bracelets of non-precious metal, metal key chains, metal key fobs, metal key rings, statues and statuettes of non-precious metal, non-luminous and non-mechanical metal signs. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 009. US 021 023 026 036 038. G & S: Decorative magnets. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 014. US 002 027 028 050. G & S: Jewelry and ornamental pins. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 016. US 002 005 022 023 029 037 038 050. G & S: Posters, postcards, note pads, stationery, pens, magazines in the field of resort services and telephone directories. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 020. US 002 013 022 025 032 050. G & S: Non-metal key chains, key rings, key tags and plastic banners. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 025. US 022 039. G & S: Clothing, namely, t-shirts, shirts, golf shirts, polo shirts, hats, baseball caps, golf caps, sweatshirts, sweaters, coats, vests, gloves, scarves and ties. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 028. US 022 023 038 050. G & S: Sporting goods, namely, golf balls, golf ball markers, golf tees, head covers for golf clubs, manually operated exercise equipment. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 035. US 100 101 102. G & S: Retail gift store services; retail grocery food and delicatessen services. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 036. US 100 101 102. G & S: Real estate agency services, namely leasing of real property and real estate management of condominiums; leasing of shopping mall space. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 039. US 100 105. G & S: Transportation services, namely transportation of passengers by van or bus; travel agency services, namely making reservations and booking for transportation; rental of bicycles. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 041. US 100 101 107. G & S: Providing recreational, sports and entertainment facilities for skiing, snowboarding, snowshoeing, golfing, tennis, ice skating, horseback riding, mountain biking, trap shooting; providing instruction in various outdoor sports, namely skiing, snowboarding, snowshoeing, golfing, tennis, ice skating, swimming, trap shooting; arranging and conducting sporting contests and exhibitions, namely ski races and exhibitions, ice skating shows and exhibitions; entertainment services, namely providing facilities for hayrides, sleigh rides, movie theaters, ice rinks, bowling alleys, swimming pools and playground facilities; rental of sporting equipment, namely skis, snowboards, snowshoes, ice skates, tennis rackets, golf clubs and related accessories; ski resorts; night clubs. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 043. US 100 101. G & S: Resort hotel and resort lodging services; restaurant services; hotel and lodging services; banquet and catering services and facilities; travel agency services, namely making reservations and bookings for temporary lodging. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

IC 021. US 002 013 023 029 030 033 040 050. G & S: Cups, mugs and glassware, namely beverage glasses and plates. FIRST USE: 20000000. FIRST USE IN COMMERCE: 20000000

IC 026. US 037 039 040 042 050. G & S: Embroidered and ornamental cloth patches. FIRST USE: 19641211. FIRST USE IN COMMERCE: 19641211

**Mark Drawing Code** (2) DESIGN ONLY

**Design Search Code** 01.05.03 - Sun representing a human face or an animal

**Serial Number** 78157988

**Filing Date** August 26, 2002

**Current Filing Basis** 1A

**Original Filing Basis** 1A;1B

**Published for Opposition** August 3, 2004

**Registration Number** 2978288

**Registration Date** July 26, 2005

**Owner** (REGISTRANT) Sinclair Oil Corporation CORPORATION WYOMING 550 East South Temple P.O. Box 30825 Salt Lake City UTAH 84111

(LAST LISTED OWNER) SINCLAIR FINANCE COMPANY CORPORATION WYOMING 550 EAST SOUTH TEMPLE P.O. BOX 31825 SALT LAKE CITY UTAH 841300825

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** John C. Stringham

**Prior**

**Registrations** 0915211;0929749;0929750  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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